IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *et al.*, *Plaintiffs,* v. **TYSON FOODS, INC., *et al.*,** *Defendants.*	**Case No. 4:05-cv-00329-GKF-SAJ**

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO STRIKE MOTION TO COMPEL PRODUCTION OF PLAINTIFFS' WORKING MODELS [DKT #1727]

Defendants respectfully submit this joint response opposing Plaintiffs' Motion to Strike Defendants' Motion to Compel Production of Plaintiffs' Working Models (Dkt #1727).

Plaintiffs' Motion to Strike is based solely on the unfounded contention that Defendants failed to satisfy their meet and confer obligations prior to filing their Motion to Compel (Dkt #1721). This argument is incorrect. Defendants fully satisfied their meet and confer obligations. Plaintiffs' argument to the contrary is based on an incorrect reading of the local rules. Under that interpretation, Plaintiffs have repeatedly postponed the production of critical information in this case, sometimes for many months, based on their position that Defendants may not move to compel production of missing information (and this Court may not order production of that information) as long as Plaintiffs continue to discuss the relevant discovery issue. *See, e.g.*, Pls.' Reply in Supp. of Objections to the Magistrate Judge's May 20, 2008 Op. and Order (June 30, 2008, Dkt #1735).[1] This run-out-the-clock procedure is not sanctioned by the Court's rules or

[1] Tellingly, Plaintiffs are currently appealing this Court's sanction order based in large part on the same unfounded argument set forth in this Motion to Strike – that Defendants somehow failed to satisfy their meet and confer requirements despite Plaintiffs' refusal to produce certain data and documents in question for more than two years. *See* Pls.' Objections to the Magistrate Judge's May 20, 2008 Op. and Order (June 4, 2008, Dkt #1716); *but see* Defs.' Resp. in Opp. to Pls.' Objections, at 4-5 (June 16, 2008, Dkt #1726).

precedents. Time is of the essence in this case, and Plaintiffs must provide Defendants with discovery in a timely fashion. Defendants seek to avoid Court intervention in the discovery process. But after weeks or months of urging Plaintiffs' to meet their discovery obligations, Defendants must at some point ask the Court to move the case forward, as Plaintiffs' delays have significantly, and perhaps irreparably, prejudiced Defendants' ability to prepare their case.

I. Defendants Have Satisfied Their Meet And Confer Obligations

As explained in Defendants' Motion to Compel and the declarations attached to that motion and this Opposition, Plaintiffs' experts have created several complex environmental models in this case. These models are computer programs, which consist of numerous electronic files that must be assembled in a precise fashion. These files must be assembled before the process of testing the substance of the models (including their data and assumptions) can begin. *See* Defs.' Mot. to Compel Production of Pls.' Working Models, at 1-5 (June 12, 2008, Dkt #1721) ("Mot. to Compel"); *see also* Third Declaration of Dr. Victor J. Bierman Jr., at ¶¶ 6-16 ("Third Bierman Decl.") (attached as Exh. A).

When the deadline for production of Plaintiffs' models arrived, Plaintiffs produced expert reports and underlying considered materials for Bernard Engel and Scott A. Wells, respectively. Rather than provide working copies of the environmental models that these experts designed and utilized in preparing their expert reports, Plaintiffs instead produced a large number of individual computer programs, input files, output files and data files related to the models used by Drs. Engel and Wells. *See* Third Bierman Decl. at ¶¶ 6-16. In essence, Plaintiffs produced a box of puzzle pieces (some of which fit, others of which did not), without ever providing a completed copy of the puzzle or instructions on how to assemble the pieces together to reproduce the working models and results.

Defendants' modeling expert Dr. Victor Bierman (who has decades of experience in this field) has worked diligently over the last six weeks to assemble working copies of the models by selecting components from among this jumble of files, but has been frustrated by the way in which the files were produced. *See* Third Bierman Decl. at ¶¶ 1-16. For example, with respect to the model used by Dr. Wells, defense experts have run many combinations and permutations of model executables and input files produced by the Plaintiffs, but have not been able to reproduce the results contained in Dr. Wells' expert report. *See* Third Bierman Decl. at ¶¶ 8-9, 12. There are numerous ways to assemble the model executables and input files that Plaintiffs produced, each of which will produce a different version of a working model with different results, but none of which match those in Dr. Wells' expert report. *See id.* at ¶ 9.

Once the deficiency in Plaintiffs' production became apparent, Defendants immediately contacted Plaintiffs' counsel and requested both working copies of the models and explanation of the hodge-podge of files that were produced. *See* Declaration of Jay T. Jorgensen, at ¶¶ 5, 7 ("Jorgensen Decl.") (attached as Exh. B). These discussions consumed several weeks as Defendants struggled to obtain sufficient information to understand what Plaintiffs had produced and why those files did not operate as described in Plaintiffs' expert reports. *See id.* at ¶¶ 3-14. Only after Plaintiffs' refused to produce working copies of the models did Defendants seek court intervention to compel the required production of this material. *See id.* at ¶¶ 3, 11.

As a result of Plaintiffs' deficient production, defense counsel engaged in the following actions that, in light of Plaintiffs refusals and delay tactics, clearly satisfied Defendants' meet and confer obligations prior to filing the motion to compel. *See id.* at ¶¶ 2-14.[2]

[2] Although Defendants' Motion to Compel detailed counsel's efforts to resolve this dispute without court intervention, Defendants recognize that counsel's declaration should have been attached thereto. Hereby, Defendants respectfully submit the Declaration of Jay T. Jorgensen

- On or about May 28, 2008, Defendants first raised the concern that Plaintiffs had failed to comply with their discovery obligation to produce all of the documents and materials responsive to Defendants' Requests for Production related to the environmental models used by Drs. Engel and Wells in preparation of their expert reports. *See* May 29, 2008 Email from D. Page to M. Bond and R. George (attached as Exh. C).

- On May 29, 2008, Plaintiffs' counsel responded that they believed all such "modeling information should be included in the 'considered materials' produced with Dr Engel's and Dr Wells' expert reports," but indicated that a supplemental response and production "that we believe is duplicative of the items produced in the considered materials" would be provided "next week" to avoid any confusion. *Id.*

- On May 30, 2008, Defendants clarified their production request after consulting with defense experts. Defendants explicitly informed Plaintiffs: "First and foremost [defense experts] need a working copy of each of the Models utilized by your experts. In layman's terms they need the working version of the Models that Plaintiffs' experts actually sat down and used. This is covered under Tyson Foods, Inc. April 17, 2008 Request for Production No. 1." May 30, 2008 Email from M. Bond to D. Page (attached as Exh. D).

- On June 2, 2008, Plaintiffs responded, again claiming that "the information you requested has been produced as considered materials," and indicating that a supplemental response would be provided "this week" to confirm this point. June 2, 2008 Email from D. Page to M. Bond and R. George (attached as Exh. E).

- During the week of June 2-6, 2008, defense counsel participated in several meet and confer phone calls with Plaintiffs on this matter. During the calls, counsel reiterated Defendants' May 30th request for the production of "a working copy of each of the Models utilized by [Plaintiffs'] experts." In the alternative, counsel requested that Plaintiffs allow defense experts to view the working models of Plaintiffs' experts so that they would be able to reproduce the models. Plaintiffs again refused, stating that such a production would not be technically feasible and that all required disclosures had been included in the considered materials produced with the expert reports. *See* Jorgensen Decl. at ¶ 9.

- On June 10, 2008, Plaintiffs once again claimed that their supplemental response – which was originally to be provided during the week of June 2-6 – would be provided in the near future to "show Defendants' counsel and their modeling expert that the requested files *had already been produced* and that these files could be used to run the water quality models used by Drs. Engel and Wells." Pls.' Opp. to Defs.' Mot. to Compel, at ¶ 8 (June 30, 2008, Dkt #1737) ("Opp. to Mot. to Compel") (emphasis in original).

(attached as Exh. B), to advise the Court in writing that defense counsel did in fact satisfy Defendants' meet and confer obligations under LCvR 37.1.

At this point, Defendants were left with no option but to seek court intervention to compel the production of this material. *See* Jorgensen Decl. at ¶ 11. First, Plaintiffs' had repeatedly refused to produce working copies of the models or allow Defendants' to view working copies of the models, so that they might have a guide on how to reproduce them. Second, Plaintiffs' had falsely claimed that the materials requested had already been produced in an operational format. Third, Plaintiffs had drawn out the process of explaining their non-production for multiple weeks. In light of the current deadline of August 14, 2008 for the submission of Defendants' expert reports and Plaintiffs' objection to an extension for Dr. Bierman to complete his work, Defendants could not allow Plaintiffs to further delay the production of these working models – without which some defense experts cannot even *begin* their analysis. It is telling that, despite their repeated promises over several weeks to provide information about their models, Plaintiffs did not provide any supplemental information related to their experts' models until *after* Defendants filed the motion to compel. *See* Jorgensen Decl. at ¶ 12.

II. Plaintiffs Still Refuse To Produce Copies Of The Working Models Or To Allow Early Depositions Of Their Modeling Experts To Discover How To Assemble The Models

Despite the fact that Defendants satisfied their meet and confer obligations prior to filing the motion to compel, Defendants have continued to make every effort to resolve this dispute without court intervention. *See, e.g.*, June 17, 2008 Email from J. Jorgensen to L. Ward (attached as Exh. F); June 27, 2008 Email from J. Jorgensen to L. Ward (attached as Exh. G); June 30, 2008 Email from J. Jorgensen to L. Ward (attached as Exh. H). For instance, defense counsel have suggested several alternative methods through which defense experts would be able to reproduce working copies of the models used by Plaintiffs' experts, such as (*i*) 1-day depositions of Plaintiffs' modeling experts to determine the process used to assemble the models, *see, e.g.*, June 27, 2008 Email from J. Jorgensen to L. Ward (attached as Exh. G); or (*ii*)

providing a written protocol for assembling the models, *see* June 30, 2008 Email from J. Jorgensen to L. Ward (attached as Exh. H). *See* Jorgensen Decl. at ¶ 14. To date, Plaintiffs have refused Defendants' suggested methods for resolving this issue and have still failed to provide Defendants with working copies, or sufficient information to reproduce working copies, of the models utilized by Drs. Engel and Wells. *See id.* at ¶ 15. Defendants are continuing to talk with Plaintiffs in an effort to resolve this matter.

Plaintiffs' contention that Defendants did not satisfy their meet and confer obligations should be viewed as inherently suspect given this continued refusal to provide Defendants with either working copies of their models or a detailed description of how to re-create those models from the files Plaintiffs produced. As of this writing, Plaintiffs have delayed Defendants' analysis of their environmental models by six weeks. By the time the motion is heard, Defendants' experts will have lost two months trying to obtain the operational models that Plaintiffs were required to produce with their expert reports. If Plaintiffs are not seeking simply to run out the time available to Defendants' experts, they should have produced working copies of their models or detailed instructions on assembling the models, rather than filing a motion to strike.

III. The Reasons Plaintiffs' Provide For Refusing To Produce Their Models Are Incorrect And Prejudicial To The Administration Of Justice

The reasons Plaintiffs have stated for refusing to produce the requested materials and information are factually and legally inaccurate. Plaintiffs have continued to maintain that the requested production is not required because (*i*) "Defendants have all of the tools necessary to run Dr. Wells' and Dr. Engel's models;" (*ii*) "[t]here was neither secrecy nor disorganization in [the design and production] of the models;" and (*iii*) "[c]ertainly an expert is not required to re-

organize his files at the whim of the opposing party." Opp. to Mot. to Compel, at 5-6. As detailed below, each of these claims is inaccurate.

From the outset of this dispute, Plaintiffs have incorrectly argued that the production of additional information is not required because "Defendants have been provided with all the tools necessary to run the models that are the subject of Defendants' Motion to Compel." *Id.* at 5.[3] But, Plaintiffs fail to recognize that the "tools" (which presumably are the myriad of electronic files Plaintiffs produced) are useless without proper instructions for assembly. *See* Third Bierman Decl. at ¶¶ 8-13, 15-16.

Plaintiffs' own statements demonstrate the importance of the defense experts utilizing the same protocol in assembling Plaintiffs' models. Plaintiffs have repeatedly asserted that the information they have produced "should be a sufficient guide for an experienced water quality modeler to run the models of Drs. Engel and Wells." June 13, 2008 Ltr. from D. Page to M. Bond, at 9 (attached as Exh. J); *see also id.* at 1 ("any experienced WQ Modeler should be able to run them as they were used by the experts"); Jorgensen Decl. at ¶¶ 6, 8-10. Accordingly, the Court can anticipate that, if the defense experts are not successful in guessing the exact protocol Plaintiffs' experts used to assemble their models, Plaintiffs will attempt to characterize the defense experts as unqualified. Moreover, if the defense experts guess incorrectly on any part of the step-by-step protocol Plaintiffs used, Plaintiffs will likely assert that the Defendants' substantive critique of the models is unfounded because the experts are not talking about the same thing. In other words, Plaintiffs will attempt to characterize the Defendants' analyses as faulty and irrelevant in the likely event that Defendants' reproductions of Plaintiffs' models do

[3] *See also* June 26, 2008 Email from L. Ward to J. Jorgensen ("Defendants have been provided with all the tools necessary to run the models that are the subject of Defendants' Motion to Compel.") (attached as Exh. I).

not precisely mirror Plaintiffs' working models. Such events will be unhelpful to the Court, which needs all of the parties' experts to examine the same models so they can help the Court understand the limitations (if any) of those models.

The partial information Plaintiffs have provided in response to Defendants' requests is not sufficient to replace either working copies of the models or a detailed protocol on how to assemble the models. For example, Defendants recently asked Plaintiffs which electronic file Dr. Wells utilized to calibrate his model. Plaintiffs' counsel responded that "Run143 was the run used in the Wells' Expert Report." June 18, 2008 Ltr. from D. Page to J. Jorgensen, at 4 (attached as Exh. K). However, the model output files produced by Dr. Wells for "Run143" do not even match the results in his own expert report (which purportedly used the same "Run143" calibration). *See* Third Bierman Decl. at ¶¶ 10-11. Furthermore, even using Dr. Wells' own input files for "Run143," defense experts were not able to reproduce Dr. Wells' own output files for "Run143." *Id.* at ¶ 11. These conflicting results highlight the need for Plaintiffs to provide a step-by-step protocol for reproducing the model that created the results in Dr. Wells' report. *See id.* at ¶ 12. This protocol should include the specific files used (file name, date/time stamp and directory/folder location) and the sequence in which each file was used to produce the results in Dr. Wells' report for the calibration and all of the scenarios. *See id.* Without this information, defense experts cannot conduct a complete analysis of Dr. Wells' model or results. *See id.*

Plaintiffs are also incorrect in asserting that "[t]here was neither secrecy nor disorganization in [the design and production] of the models." Opp. to Mot. to Compel, at 6. In fact, the files Plaintiffs produced are extremely disorganized, which has obscured the proper function of each of the files produced. For example, Plaintiffs' production fails to provide information regarding the model files and the input and output files for the phosphorus routing

models that Dr. Engel developed. *See* Third Bierman Decl. at ¶ 14. These phosphorus routing files are a key component in Dr. Engel's models because they provide a critical link between the phosphorus loads computed by one component of the models and the phosphorus loads that the models predict will be delivered to Lake Tenkiller. *See id.* These phosphorus routing computations are a veritable "black-box" that has precluded defense experts from conducting a complete analysis of Dr. Wells' models and results.

Finally, Plaintiffs' are simply wrong in stating that this is a request for their experts to "re-organize [their] files at the whim of the opposing party." Opp. to Mot. to Compel, at 6. Defendants ask for no more than the information necessary to assemble the various electronic files that Plaintiffs have produced into working copies of their models. The Federal Rules clearly state that, where requested, a producing party must provide electronically stored information (ESI) in a "reasonably usable form." Fed. R. Civ. P. 34(b). To ensure that ESI is provided in a "reasonably usable form," the Federal Rules further provide that a producing party may be required to either (*i*) "provide some reasonable amount of technical support, information on application software, or other reasonable assistance to enable the requesting party to use the information," Fed. R. Civ. P. 34 Advisory Committee Notes; or (*ii*) produce such information in a different format.[4] Thus, where Plaintiffs have provided the programs and data underlying their

[4] *See Powerhouse Marks, LLC. v. Chi Hsin Inpex, Inc.*, 2006 WL 83477, *3 (E.D. Mich. Jan. 12, 2006) ("[u]nder the Federal Rules, a party may be ordered to produce such information [in a 'more usable form of data'] even when the electronic information does not exist in the format requested" where the relevant information cannot otherwise be ascertained) (citing Fed. R. Civ. P. 34 advisory committee notes ("respondent may be required to use his devices to translate the data into usable form")); *see also* Fed. R. Civ. P. 34 Advisory Committee Notes ("when the data can as a practical matter be made usable by the discovering party only through respondent's devices, respondent may be required to use his devices to translate the data into usable form"); *Fleming v. City of New York*, 2006 U.S. Dist. LEXIS 55733, *9-18 (S.D.N.Y. Aug. 8, 2006) (sanctioning party for failure to produce the formatting specifications for a data set to be analyzed by the opposing party expert); *U.S. v. Batchelor-Robjohns*, 2005 U.S. Dist. LEXIS

experts' models in an incomprehensible and unusable form, the Federal Rules explicitly provide that they may be required to (*i*) provide sufficient information or assistance to enable the requesting party to use the information (*e.g.* provide a step-by-step protocol for defense experts' to reproduce the working models and results); or (*ii*) produce the data in a usable format, even if the data does not exist in the format requested (*e.g.* produce working copies of the models).

Finally, even if Plaintiffs were not required to produce working copies of their models, this Court has authority to allow Defendants to take early, supplemental depositions of Plaintiffs' modeling experts for purposes of discovering how the models are assembled. These 1-day depositions would be distinct from the substantive depositions of those experts that will be necessary once the models have been assembled and evaluated.

Conclusion

Plaintiffs have repeatedly refused to comply with their obligation to produce working copies of the environmental models that Plaintiffs' experts designed and utilized in their expert reports. In an effort to avoid burdening the Court, Defendants have suggested that Plaintiffs either produce their experts for a deposition on how the models are assembled, or produce a written protocol for assembling the models. Plaintiffs have not complied. Clearly Defendants have satisfied their meet and confer obligations. Accordingly, the Court should deny the unfounded Motion to Strike and order the payment of costs incurred by Defendants in responding to this dilatory motion.

13552, *12-13 (S.D. Fla. June 3, 2005) (excluding plaintiff's expert due to failure to produce expert's proprietary models – specifying the implied return, residual value curves and lessor economic return curves used by the expert – which precluded Defendant's expert and the court from testing the reliability of the expert's conclusions); *Feldman v. New York State Bridge Auth.*, 2007 NY Slip Op 4213, 2 (N.Y. App. Div. 3d Dep't 2007) (affirming trial court's decision to adjourn trial and order defendant to respond to plaintiff's request for specific itemized information to explain and interpret the computer files produced by defendant and examined by defendant's expert, where the current raw data is indecipherable).

Respectfully submitted,

BY: */s/ Jay T. Jorgensen*

Thomas C. Green
Mark D. Hopson
Jay T. Jorgensen
Timothy K. Webster
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
Telephone: (202) 736-8000
Facsimile: (202) 736-8711

-and-

Michael R. Bond
KUTAK ROCK LLP
The Three Sisters Building
214 West Dickson Street
Fayetteville, AR 72701-5221
Telephone: (479) 973-4200
Facsimile: (479) 973-0007

-and-

Stephen L. Jantzen, OBA # 16247
Patrick M. Ryan, OBA # 7864
Paula M. Buchwald, OBA # 20464
RYAN, WHALEY & COLDIRON, P.C.
119 N. Robinson
900 Robinson Renaissance
Oklahoma City, OK 73102
Telephone: (405) 239-6040
Facsimile: (405) 239-6766

ATTORNEYS FOR TYSON FOODS, INC.; TYSON POULTRY, INC.; TYSON CHICKEN, INC; AND COBB-VANTRESS, INC.

BY: */s/ James M. Graves*

(SIGNED BY FILING ATTORNEY WITH PERMISSION)

James M. Graves
Gary V. Weeks
BASSETT LAW FIRM
P.O. Box 3618

Fayetteville, AR 72702-3618
Telephone: (479) 521-9996
Facsimile: (479) 521-9600

-and-

Randall E. Rose, OBA #7753
George W. Owens
OWENS LAW FIRM, P.C.
234 W. 13th Street
Tulsa, OK 74119
Telephone: (918) 587-0021
Facsimile: (918) 587-6111
ATTORNEYS FOR GEORGE'S, INC. AND GEORGE'S FARMS, INC.

BY: */s/ A. Scott McDaniel*
(SIGNED BY FILING ATTORNEY WITH PERMISSION)
A. Scott McDaniel, OBA #16460
Nicole M. Longwell, OBA #18771
Philip D. Hixon, OBA #19121
MCDANIEL, HIXON, LONGWELL & ACORD, PLLC
320 South Boston Ave., Ste. 700
Tulsa, OK 74103
Telephone: (918) 382-9200
Facsimile: (918) 382-9282

-and-

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
425 W. Capitol Avenue, Suite 1800
Little Rock, AR 72201
Telephone: (501) 688-8800
Facsimile: (501) 688-8807
ATTORNEYS FOR PETERSON FARMS, INC.

BY: */s/ R. Thomas Lay*
(SIGNED BY FILING ATTORNEY WITH PERMISSION)
R. Thomas Lay, OBA #5297
KERR, IRVINE, RHODES & ABLES
201 Robert S. Kerr Ave., Suite 600

Oklahoma City, OK 73102
Telephone: (405) 272-9221
Facsimile: (405) 236-3121

-and-

Jennifer s. Griffin
LATHROP & GAGE, L.C.
314 East High Street
Jefferson City, MO 65101
Telephone: (573) 893-4336
Facsimile: (573) 893-5398

ATTORNEYS FOR WILLOW BROOK FOODS, INC.

BY: */s/ John R. Elrod*

(SIGNED BY FILING ATTORNEY WITH PERMISSION)

John R. Elrod
Vicki Bronson, OBA #20574
P. Joshua Wisley
CONNER & WINTERS, L.L.P.
211 East Dickson Street
Fayetteville, AR 72701
Telephone: (479) 582-5711
Facsimile: (479) 587-1426

-and-

Bruce W. Freeman
CONNER & WINTERS, L.L.P.
1 Williams Center, Room 4000
Tulsa, OK 74172
Telephone: (918) 586-5711
Facsimile: (918) 586-8547

ATTORNEYS FOR SIMMONS FOODS, INC.

BY: */s/ Robert P. Redemann*

(SIGNED BY FILING ATTORNEY WITH PERMISSION)

Robert P. Redemann, OBA #7454
Lawrence W. Zeringue, OBA #9996
David C. Senger, OBA #18830

PERRINE, MCGIVERN, REDEMANN,
REID, BERRY & TAYLOR, P.L.L.C.
Post Office Box 1710
Tulsa, OK 74101-1710
Telephone: (918) 382-1400
Facsimile: (918) 382-1499

-and-

Robert E. Sanders
Stephen Williams
YOUNG WILLIAMS P.A.
Post Office Box 23059
Jackson, MS 39225-3059
Telephone: (601) 948-6100
Facsimile: (601) 355-6136

ATTORNEYS FOR CAL-MAINE FARMS, INC. AND CAL-MAINE FOODS, INC.

-and-

BY: */s/ John H. Tucker*
(SIGNED BY FILING ATTORNEY WITH PERMISSION)

John H. Tucker, OBA #9110
Theresa Noble Hill, OBA #19119
RHODES, HIERONYMUS, JONES, TUCKER & GABLE, PLLC
100 W. Fifth Street, Suite 400 (74103-4287)
P.O. Box 21100
Tulsa, Oklahoma 74121-1100
Telephone: 918/582-1173
Facsimile: 918/592-3390

-and-

Delmar R. Ehrich
Bruce Jones
Dara D. Mann
Krisann C. Kleibacker Lee
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402

Telephone: 612/766-7000
Facsimile: 612/766-1600
ATTORNEYS FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

CERTIFICATE OF SERVICE

I certify that on the 7th day of July, 2008, I electronically transmitted the attached document to the following ECF registrants:

W. A. Drew Edmondson, Attorney General	drew_edmondson@oag.state.ok.us
Kelly Hunter Burch, Assistant Attorney General	kelly_burch@oag.state.ok.us
J. Trevor Hammons, Assistant Attorney General	trevor_hammons@oag.state.ok.us
Tina L. Izadi, Assistant Attorney General	tina_izadi@oag.state.ok.us
Daniel Lennington, Assistant Attorney General	daniel.lennington@oak.ok.gov
Douglas Allen Wilson	doug_wilson@riggsabney.com,
Melvin David Riggs	driggs@riggsabney.com
Richard T. Garren	rgarren@riggsabney.com
Sharon K. Weaver	sweaver@riggsabney.com
David P. Page	dpage@riggsabney.com
Riggs Abney Neal Turpen Orbison & Lewis	
Robert Allen Nance	rnance@riggsabney.com
Dorothy Sharon Gentry	sgentry@riggsabney.com
Riggs Abney	
J. Randall Miller	rmiller@mkblaw.net
Louis W. Bullock	lbullock@bullock-blakemore.com
Michael G. Rousseau	mrousseau@motleyrice.com
Jonathan D. Orent	jorent@motleyrice.com
Fidelma L. Fitzpatrick	ffitzpatrick@motleyrice.com
Motley Rice LLC	
Elizabeth C. Ward	lward@motleyrice.com
Frederick C. Baker	fbaker@motleyrice.com
William H. Narwold	bnarwold@motleyrice.com
Lee M. Heath	lheath@motleyrice.com
Elizabeth Claire Xidis	cxidis@motleyrice.com
Ingrid L. Moll	imoll@motleyrice.com
Motley Rice	
COUNSEL FOR PLAINTIFFS	
Stephen L. Jantzen	sjantzen@ryanwhaley.com
Patrick M. Ryan	pryan@ryanwhaley.com
Paula M. Buchwald	pbuchwald@ryanwhaley.com
Ryan, Whaley & Coldiron, P.C.	
Mark D. Hopson	mhopson@sidley.com
Jay Thomas Jorgensen	jjorgensen@sidley.com
Timothy K. Webster	twebster@sidley.com
Sidley Austin LLP	
Robert W. George	robert.george@tyson.com

Michael R. Bond — michael.bond@kutakrock.com
Erin Walker Thompson — erin.thompson@kutakrock.com
Kutak Rock LLP
COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.; AND COBB-VANTRESS, INC.

R. Thomas Lay — rtl@kiralaw.com
Kerr, Irvine, Rhodes & Ables

Jennifer S. Griffin — jgriffin@lathropgage.com
Lathrop & Gage, L.C.
COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann — rredemann@pmrlaw.net
Lawrence W. Zeringue — lzeringue@pmrlaw.net
David C .Senger — dsenger@pmrlaw.net
Perrine, McGivern, Redemann, Reid, Berry & Taylor, PLLC

Robert E. Sanders — rsanders@youngwilliams.com
E. Stephen Williams — steve.williams@youngwilliams.com
Young Williams P.A.
COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens — gwo@owenslawfirmpc.com
Randall E. Rose — rer@owenslawfirmpc.com
The Owens Law Firm, P.C.

James M. Graves — jgraves@bassettlawfirm.com
Gary V. Weeks
Paul E. Thompson, Jr. — pthompson@bassettlawfirm.com
Woody Bassett — wbassett@bassettlawfirm.com
Jennifer E. Lloyd — jlloyd@bassettlawfirm.com
Bassett Law Firm
COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod — jelrod@cwlaw.com
Vicki Bronson — vbronson@cwlaw.com
P. Joshua Wisley — jwisley@cwlaw.com
Conner & Winters, P.C.

Bruce W. Freeman — bfreeman@cwlaw.com
D. Richard Funk
Conner & Winters, LLLP
COUNSEL FOR SIMMONS FOODS, INC.

John H. Tucker — jtuckercourts@rhodesokla.com
Leslie J. Southerland — ljsoutherlandcourts@rhodesokla.com
Colin H. Tucker — chtucker@rhodesokla.com
Theresa Noble Hill — thillcourts@rhodesokla.com
Rhodes, Hieronymus, Jones, Tucker & Gable

Terry W. West terry@thewesetlawfirm.com
The West Law Firm

Delmar R. Ehrich dehrich@faegre.com
Bruce Jones bjones@faegre.com
Krisann Kleibacker Lee kklee@baegre.com
Dara D. Mann dmann@faegre.com
Todd P. Walker twalker@faegre.com
Faegre & Benson LLP
COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

Michael D. Graves mgraves@hallestill.com
D. Kenyon Williams, Jr. kwilliams@hallestill.com
COUNSEL FOR POULTRY GROWERS

William B. Federman wfederman@aol.com
Jennifer F. Sherrill jfs@federmanlaw.com
Federman & Sherwood

Charles Moulton charles.moulton@arkansag.gov
Jim DePriest jim.depriest@arkansasag.gov
Office of the Attorney General
COUNSEL FOR THE STATE OF ARKANSAS AND THE ARKANSAS NATURAL RESOURCES COMMISSION

Carrie Griffith griffithlawoffice@yahoo.com
COUNSEL FOR RAYMOND C. AND SHANNON ANDERSON

Gary S. Chilton gchilton@hcdattorneys.com
Holladay, Chilton & Degiusti, PLLC

Victor E. Schwartz vschwartz@shb.com
Cary Silverman csilverman@shb.com
Shook, Hardy & Bacon, LLP

Robin S. Conrad rconrad@uschamber.com
National Chamber Litigation Center, Inc.
COUNSEL FOR AMICI CURIAE CHAMBER OF COMMERCE FOR THE U.S. AND THE AMERICAN TORT REFORM ASSOCIATION

Richard C. Ford fordr@crowedunlevy.com
LeAnne Burnett burnettl@crowedunlevy.com
Crowe & Dunlevy
COUNSEL FOR AMICUS CURIAE OKLAHOMA FARM BUREAU, INC.

M. Richard Mullins richard.mullins@mcafeetaft.com
McAfee & Taft

James D. Bradbury jim@bradburycounsel.com
James D. Bradbury, PLLC

COUNSEL FOR AMICI CURIAE TEXAS FARM BUREAU, TEXAS CATTLE FEEDERS ASSOCIATION, TEXAS PORK PRODUCERS ASSOCIATION AND TEXAS ASSOCIATION OF DAIRYMEN

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

C. Miles Tolbert
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118
COUNSEL FOR PLAINTIFFS

Thomas C. Green
Sidley Austin Brown & Wood LLP
1501 K Street NW
Washington, DC 20005
COUNSEL FOR TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC.; AND COBB-VANTRESS, INC.

Dustin McDaniel
Justin Allen
Office of the Attorney General of Arkansas
323 Center Street, Suite 200
Little Rock, AR 72201-2610
COUNSEL FOR THE STATE OF ARKANSAS AND THE ARKANSAS NATURAL RESOURCES COMMISSION

/s/ Jay T. Jorgensen